

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI,
WESTERN DIVISION

UNITED STATES OF AMERICA

RESPONDENT

VERSUS

CRIMINAL ACTION NO. 5:03cr1-BrN
CIVIL ACTION NO. 5:04cv89-DCB

DANNY HUBBARD

PETITIONER

ORDER

This matter comes before the Court on the petitioner's Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C. § 2255 [**criminal docket entry no. 31; civil docket entry no. 1**].

Pursuant to the Opinion and Order of the United States Court of Appeals for the Fifth Circuit [criminal docket entry no. 55] wherein this Court's Order denying the petitioner's Motion to Vacate, Set Aside, or Correct Sentence [criminal docket entry no. 39; civil docket entry no. 2] was vacated, the Court dismisses the petitioner's § 2255 Motion without prejudice.

In a separate memorandum opinion and order to follow, this Court, as instructed by the Fifth Circuit, will construe the petitioner's letter filed on August 11, 2003, as a timely filed motion for reconsideration of his sentence and will advise him that he may file a notice of appeal within ten days of the entry of the ruling on his motion for reconsideration of sentence. Accordingly,

IT IS HEREBY ORDERED that the petitioner's Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C. § 2255

[criminal docket entry no. 31; civil docket entry no. 1] is DENIED
WITHOUT PREJUDICE.

SO ORDERED, this the 6th day of November, 2007.

s/ David Bramlette
UNITED STATES DISTRICT JUDGE